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Caesar, Rivise, Bernstein, Cohen & Pokotilow, Ltd.  
Seven Penn Center, 12<sup>th</sup> Floor  
1635 Market Street  
Philadelphia, PA 19103-2212

In re Application of	:	
FARRELL, Christopher John	:	DECISION ON
Application No.: 10/070,349	:	
PCT Application No.: PCT/AU99/00840	:	PETITION
International Filing Date: 29 September 1999	:	
Priority Date: 16 December 1998	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: P1096/20003	:	
For: ORAL APPLIANCE	:	

Applicant's "Petition To Revive Unintentionally Abandoned Application Under 37 CFR 1.17(m)," filed in the United States Patent and Trademark Office on 28 February 2002 has been treated as a petition under 37 CFR 1.137(b). Petition is **GRANTED**.

### **BACKGROUND**

On 29 September 1999, applicant filed an international application, PCT/AU99/00840, which claimed a priority date of 16 December 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau on 22 June 2000. A demand for international preliminary examination was filed on 23 May 2000, prior to the expiration of nineteen months from the priority date. The thirty month period for entering the national stage in the United States expired at midnight on 18 June 2001 (16 June 2001 was a Saturday).

On 28 February 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a petition to revive, payment of the petition fee and payment of the basic national fee.

### **DISCUSSION**

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant's statement that "the entire period of abandonment through the date of this reply was unintentional," is construed to mean that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). If this is not a correct interpretation, applicant must notify the PCT Legal Office immediately. The petition fee and basic national fee have been submitted. A terminal disclaimer is not required as application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

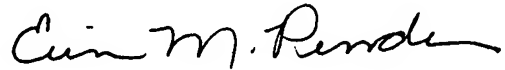
### CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, including preparation of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for filing the oath or declaration after thirty months are required.



Boris Milef  
PCT Legal Examiner  
PCT Legal Administration



Erin M. Pender  
Attorney Advisor  
PCT Legal Administration

Telephone: 703-305-0455  
Facsimile: 703-308-6459